

**IN THE UNITED STATES DISTRICT
COURT FOR THE EASTERN DISTRICT
OF TEXAS MARSHALL DIVISION**

NETLIST, INC.,)	
)	
Plaintiff,)	
)	Case No. 2:22-cv-293-JRG
vs.)	
)	JURY TRIAL DEMANDED
SAMSUNG ELECTRONICS CO, LTD;)	(Lead Case)
SAMSUNG ELECTRONICS AMERICA,)	
INC.; SAMSUNG SEMICONDUCTOR)	
INC.,)	
)	
Defendants.)	

NETLIST, INC.,)	
)	
Plaintiff,)	
)	Case No. 2:22-cv-294-JRG
vs.)	
)	JURY TRIAL DEMANDED
MICRON TECHNOLOGY, INC.;)	
MICRON SEMICONDUCTOR)	
PRODUCTS, INC.; MICRON)	
TECHNOLOGY TEXAS LLC,)	
)	
Defendants.)	

**PLAINTIFF NETLIST, INC.'S SUR-REPLY TO MICRON'S MOTION TO
STAY (DKT. 288)**

Micron does not dispute that it intends to raise substantially more invalidity arguments in this case than have been raised in IPR. Micron does not dispute that it believes it is not estopped from raising those arguments. As Judge Payne recently explained:

Further, if invalidity is not found, Micron has asserted that estoppel is limited to art explicitly asserted in the petition. *See* Dkt. No. 80 at 10; Dkt. No. 406 at 114–115. This form of estoppel carries a lesser likelihood of simplification of the issues on the two patents awaiting final written decisions.

Netlist Inc. v. Micron Tech. Inc., et al., 2:22-cv-203-JRG-RSP, Dkt. 416 at 5 (E.D. Tex. Jan. 3, 2024).

For the reasons set out in Opposition (Dkt. 326) and Sur-Reply (Dkt. 410) to Samsung’s motion to stay, and for the additional reason of Micron’s more limited estoppel as to invalidity theories, the Court should deny Micron’s motion.

Dated: January 30, 2024

Respectfully submitted,

/s/ Jason G. Sheasby

Samuel F. Baxter
Texas State Bar No. 01938000
sbaxter@mckoolsmith.com
Jennifer L. Truelove
Texas State Bar No. 24012906
jtruelove@mckoolsmith.com
MCKOOL SMITH, P.C.
104 East Houston Street Suite 300
Marshall, TX 75670
Telephone: (903) 923-9000
Facsimile: (903) 923-9099

Jason G. Sheasby (*pro hac vice*)
jsheasby@irell.com
Annita Zhong, Ph.D. (*pro hac vice*)
hzhong@irell.com
Andrew J. Strabone (*pro hac vice*)
astrabone@irell.com
Yanan Zhao (*pro hac vice*)
yzhao@irell.com
Michael W. Tezyan (*pro hac vice*)
mtezyan@irell.com

IRELL & MANELLA LLP

1800 Avenue of the Stars, Suite 900
Los Angeles, CA 90067
Tel. (310) 277-1010
Fax (310) 203-7199

Attorneys for Plaintiff Netlist, Inc.

CERTIFICATE OF SERVICE

I hereby certify that, on January 30, 2024, a copy of the foregoing was served to all counsel of record via the Court's ECF System.

/s/ Isabella Chestney
Isabella Chestney